

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
CIVIL ACTION NO. 5:15-CV-120**

JONATHAN BYNUM, ALENE DERR  
(DECEASED),

**Plaintiffs,**

**v.**

BB&T BANK,

**Defendants.**

**ORDER**

**BEFORE THE COURT** is Jonathan Bynum’s Motion to Proceed *in forma pauperis*. For the following reasons, the motion is DENIED and the Complaint is DISMISSED.

Given Plaintiff’s motion, the Court must examine the pleadings to determine whether this Court has jurisdiction and to ensure that the action is not frivolous or malicious and states a claim upon which relief can be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(i) and (ii); *see also Michau v. Charleston County, S.C.*, 434 F.3d 725, 728 (4th Cir.2006) (noting that § 1915(e) “governs IFP filings in addition to complaints filed by prisoners”). A complaint is frivolous “whe[n] it lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325, 109 S.Ct. 827, 104 L.Ed.2d 338 (1989).

Plaintiff asserts state tort claims and the only asserted basis for federal jurisdiction is 28 U.S.C. § 1332. On its face, the Complaint shows that diversity of citizenship is lacking. *See* 28 U.S.C. § 1332(a). Plaintiff is a resident of North Carolina. They are suing BB&T, which is a North Carolina corporation.<sup>1</sup> *Black v. PNC Bank*, No. 1:12CV892, 2013 WL 4494470, at \*2

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<sup>1</sup> The Court takes judicial notice of the records of the North Carolina Secretary of State evidencing that BB&T is a corporation of North Carolina.

(M.D.N.C. Aug. 19, 2013); *Intec USA, LLC v. Advanced Food Sys., B.V.*, No. 1:08CV379, 2009 WL 801812, at \*3 (M.D.N.C. Mar. 25, 2009).

Given that the Court lacks subject matter jurisdiction, the case is dismissed. Plaintiff is free to re-file and litigate his case in North Carolina's judicial system, which is more than competent to address any meritorious concerns he may have.

**SO ORDERED.**

Signed: October 21, 2015

A handwritten signature in black ink, reading "Richard L. Voorhees". The signature is written in a cursive, flowing style with a horizontal line underneath the name.

Richard L. Voorhees  
United States District Judge

